IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4980 OF 2005

Muktar Nabi Shaikh. ... Applicant.

Versus.

State of Maharashtra. ... Respondent.

Shri Uday Warunjikar for the Applicant.

Shri R.Y.Mirza, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 30th Sept., 2005.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State. The Applicant sought compulsory bail under section 167(2) of the Code of Criminal Procedure, 1973. In view of the peculiar contentions raised by the Applicant in this application, report of the learned Magistratwe has been called for.

I have perused the report.

2. The learned A.P.P. at this stage pointed out that consideration of the merits of the case of the Applicant in so far as the prayer under section 167(2) is concerned is not necessary. He pointed out that the Applicant was arrested on 9th October 2004. The charge sheet has admittedly been filed on 7th January 2005. He submitted that the charge sheet was filed before expiry of the statutory period of 90 days.

3. The learned Advocate for the Applicant did not dispute that the Applicant was arrested on 9th October 2004 and charge sheet was filed on 7th January 2005. On the next day of the arrest, the Applicant was remanded to police custody. In view of this position, it is obvious that the charge sheet is filed before expiry of the period of 90 days. Hence prayer made under section 167(2) of the said Code of 1973 cannot be considered.

4. While rejecting the Application, I find that there are certain important aspects which must be brought to the notice of the Registrar (Judicial-I) of this Court. The report of the learned Magistrate discloses that immediately after the charge sheet is received from the Police, an entry is made of the filing of charge sheet in the relevant register. In my view, to avoid controversy like the one which has arisen in the present matter, it is worth considering and adopting a practice of mentioning the exact time at which the charge sheet is received from the Police while making the entry in the Register. Such entry may become important in cases where the Application for seeking compulsory bail is made on the same day on which charge sheet is filed. The Registrar (Judicial-I) will have to consider this aspect.

5. There is one more aspect which needs consideration. It is noticed that in large number of

matters whenever a report of the subordinate Court is called for by this Court, the order of this Court is forwarded by post along with the writ of the order. It takes a long time for dispatch of the writ and consequently there is a delay in receiving the report. If the District Courts are connected to this Court by e-mail, the orders passed by this Court calling for the report of the subordinate Courts can be conveniently sent to the concerned Judicial Officer through the District Head Quarter by e-mail. It is desirable that the Registrar (Information Technology) should look into the matter.

6. Application is rejected. It will be open for the Applicant to apply for bail in accordance with law.

Judge.